



# Public Notice

**US Army Corps  
of Engineers**  
Louisville District

Public Notice No.  
200400706

Date:  
14 Jul 04

Closing Date:  
12 Aug 04

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Ms. Kimberly M. Beasley, CELRL-OP-FS  
P.O. Box 59  
Louisville, Kentucky 40201-0059

Phone: (502) 315-6688

This notice announces an application submitted for an after-the-fact Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA)

APPLICANT: Oldham County Board of Education  
Superintendent  
P.O. Box 218  
Buckner, Kentucky 40010

AGENT: Scientific Studies Company  
314 Browns Lane  
Louisville, Kentucky 40207

LOCATION: Unnamed tributaries and open water that flow to Pond Creek on a site located north of the US-42 and Highway 1793 intersection in Goshen, northern Oldham County, Kentucky

Latitude: 38-23-27.0855  
Longitude: 85-35-04.4502  
7.5 Minute Quad: Owen

PURPOSE: To expand existing school facilities, which include buildings, parking, athletic fields, and detention.

DESCRIPTION OF WORK: This proposal was constructed without authorization from the DA. Upon discovery of the unauthorized activity, the applicant was prohibited from any further construction within our permitting jurisdiction. At this time, a DA Permit application was accepted as an After-the-Fact Permit request.

The applicant requests authorization to discharge 22,150 cubic yards of clean earthen material into 1.5 acres of open water, 915 linear feet of intermittent stream, and 430 linear feet of ephemeral stream to Pond Creek to facilitate the expansion of an existing school.

MITIGATION: The applicant proposes to mitigate for the impact of 1.5-acres of open water and 430 linear feet (0.01 acre) of ephemeral stream by purchasing 3.8 acre of credits at an approved wetland mitigation bank. To mitigate for the impact to 915 linear feet of intermittent stream, the applicant proposes to pay \$164,700 to the Kentucky Department of Fish and Wildlife Resources In-Lieu Fee Program.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the Kentucky Natural Resources and Environmental Protection Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the activity has not destroyed or endangered any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which have been directly affected by the work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental

Protection Agency (USEPA), under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this activity. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Ms. Kimberly M. Beasley, CELRL-OP-FS at the address noted above and should refer to the Public Notice Number 200400706-kmb.